

Daniel C. Girard (State Bar No. 114826)
Elizabeth C. Pritzker (State Bar No. 146267)
Alex C. Turan (State Bar No. 227273)

GIRARD GIBBS LLP

601 California Street, Suite 1400
San Francisco, California 94108
Telephone: (415) 981-4800
Facsimile: (415) 981-4846

Michael E. Criden (*pro hac vice*)
Kevin B. Love (*pro hac vice*)

CRIDEN & LOVE, P.A.

7301 S.W. 57th Court, Suite 515
South Miami, Florida 33143
Telephone: (305) 357-9010
Facsimile: (305) 357-9050

Attorneys for Plaintiff Armond Faris

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

ARMOND FARIS, on behalf of himself and all others
similarly situated,

Plaintiff,

vs.

NETFLIX, INC., WAL-MART STORES, INC., and
WALMART.COM USA LLC,

Defendants.

Case No. 09-cv-0180 EDL

**ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES
SHOULD BE RELATED**

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE that, pursuant to Local Rules 3-12, Plaintiff Armond Faris submits
3 this administrative motion for the Court to consider whether *Armond Faris v. Netflix, Inc., et al.*, Case
4 No. 09-cv-0180 EDL, a putative class action lawsuit filed on January 14, 2009, should be related to
5 *Andrea Resnick, et al. v. Walmart.com USA LLC, et al.*, Case No 09-cv-0002, filed on January 2,
6 2009, the low-numbered action also pending in this District. That action has been assigned to the
7 Honorable Phyllis J. Hamilton. In addition to the *Resnick* action, other related actions pending in this
8 District are *Michael O'Connor v. Walmart.com USA LLC, et al.*, Case No. 09-cv-0096, filed on
9 January 9, 2009; *Sarah Endzweig v. Walmart.com USA LLC, et al.*, Case No. 09-cv-0111; *Christopher*
10 *P. Schmitz v. Walmart.com USA LLC, et al.*, Case No. 09-cv-0116; *Scott Lynch, et al. v. Walmart.com*
11 *USA LLC, et al.*, Case No. 09-cv-0138; *Jonathan Groce, et al. v. Netflix, Inc. et al.*, Case No. 09-cv-
12 0139; and *Liza Sivek v. Walmart.com USA LLC, et al.*, Case No. 09-cv-0156. The *Sivek* action is
13 assigned to the Honorable Joseph C. Spero. The *O'Connor, Endzweig, Schmitz, Lynch, and Groce*
14 actions were ordered related to the *Resnick* action as of January 16, 2009 and have been assigned to
15 the Honorable Phyllis J. Hamilton.

16 These actions involve substantially the same transactions, events, questions of law, and allege
17 essentially the same violations of federal antitrust law against substantially the same Defendants.
18 These actions allege that Defendants conspired to allocate the market for DVD rentals, agreed not to
19 compete in that market, and that Netflix monopolized the DVD rental market. These actions are
20 alleged to have harmed consumers who were Netflix subscribers by causing them to pay more for
21 their subscriptions than they would have paid absent Defendants' illegal market allocation agreement.

22 It appears likely that there will be an unduly burdensome duplication of labor and expenses
23 and potentially conflicting results if the cases are heard before different judges.

24 Given the similarities of these actions, assignment of these cases to a single Federal District
25 Court Judge will conserve judicial resources and promote efficient determination of the actions while
26 avoiding potentially conflicting results. All eight cases pending in this District are at a preliminary
27 stage and, thus, assignment to a single judge would not prejudice any of the parties. Accordingly,
28 Plaintiff Armond Faris respectfully requests that the action entitled *Armond Faris v. Netflix, Inc., et al.*

1 be deemed related to *Andrea Resnick, et al. v. Walmart.com USA LLC, et al.*, the first filed case in this
2 District, which is presently assigned to the Honorable Phyllis J. Hamilton.

3
4 DATED: January 20, 2009

Respectfully submitted,

5
6 By: /s/ Alex C. Turan

7 Daniel C. Girard

8 Elizabeth C. Pritzker

Alex C. Turan

GIRARD GIBBS LLP

9 601 California Street, 14th Floor

10 San Francisco, California 94108

11 Telephone: (415) 981-4800

Facsimile: (415) 981-4846

12 Michael E. Criden (*pro hac vice*)

13 Kevin B. Love (*pro hac vice*)

CRIDEN & LOVE, P.A.

14 7301 S.W. 57th Court, Suite 515

15 South Miami, Florida 33143

16 Telephone: (305) 357-9010

Facsimile: (305) 357-9050

17 *Attorneys for Plaintiff Armond Faris*
18
19
20
21
22
23
24
25
26
27
28